

Message Text

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PAGE 01 STATE 213663
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C O N F I D E N T I A L STATE 213663

E.O. 11652: GDS

TAGS: CGEN, PGOV, GE, GW, BQG

SUBJECT: US-GDR CONSULAR CONVENTION: TALKING POINTS ON
"CIRCLE OF PERSONS" APPROACH

REF: STATE 209824

1. IN PRESENTING TEXT OF "CIRCLE OF PERSONS" APPROACH TO
FRG EMBASSY AUGUST 24, DEPARTMENT OFFICER WILL HAND OVER
NON-PAPER, THE TEXT WHICH FOLLOWS IN PARAS 2-5 BELOW.

2. BEGIN TEXT. HAVING DETERMINED THAT THE GDR HAS NOTHING
NEW TO OFFER ON THE NATIONALITY QUESTION IN THE CONSULAR
CONVENTION CONTEXT AND RECALLING AMBASSADOR MOLDT'S EX-
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PRESSIONS OF CONCERN ABOUT THE "CIRCLE OF PERSONS" TO
WHOM THE CONSULAR CONVENTION WOULD APPLY, WE HAVE DECIDED
ON A NEW APPROACH TO THE GDR THAT WOULD ADDRESS THE LATTER
ISSUE WHILE REMAINING SILENT ON NATIONALITY. WE WILL PRO-
POSE TO THE GDR THAT, AT THE TIME OF SIGNING THE CONSULAR
CONVENTION, THE TWO SIDES ISSUE MIRROR-IMAGE STATEMENTS
DEFINING THE TERMS OF CONSULAR ACCESS GUARANTEED IN THE

TEXT OF THE CONVENTION.

3. THE U.S. STATEMENT WOULD READ AS FOLLOWS: THE GOVERNMENT OF THE UNITED STATES OF AMERICA WISHES TO ASSURE THE

GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC THAT, WITH REGARD TO THE BILATERAL US-GDR CONSULAR CONVENTION SIGNED THIS DATE, CONSULS OF THE GDR WILL HAVE THE RIGHT OF ACCESS TO GDR CITIZENS IN THE UNITED STATES ON PASSPORTS OF THE GDR CONTAINING US ENTRY VISAS. NO GDR CITIZEN WILL BE FORCED TO SEE CONSULAR OR OTHER OFFICIALS OF ANY OTHER STATE AGAINST HIS OR HER WILL.

4. THE FIRST SENTENCE OF THE ABOVE TEXT IS SIMPLY A RE-ITERATION OF THE RIGHT OF ACCESS CONTAINED IN THE CONVENTION ITSELF AND IN PARAGRAPH 3 OF THE AGREED MINUTE ON THE ESTABLISHMENT OF RELATIONS SIGNED BY THE U.S. AND GDR IN 1974. THE COMBINATION OF PASSPORT AND VISA NOT ONLY ASSURES THAT THE PERSON TO WHOM ACCESS IS BEING GRANTED IS IN THE COUNTRY IN QUESTION LEGALLY BUT ALSO SOLVES THE DUAL NATIONALITY ISSUE WITHOUT DEFINING NATIONALITY. IN THIS REGARD, THE FIRST SENTENCE IS SIMILAR IN STYLE AND PURPOSE TO NOTE NO. 38 WHICH WAS APPENDED TO THE U.S.-POLISH CONSULAR CONVENTION OF 1972. WE HAVE NOT INCLUDED AN ELEMENT OF VOLITION IN THIS SENTENCE, IN ORDER TO PROTECT OUR OWN RIGHT OF ACCESS TO DETAINED AMERICANS. THE CONFIDENTIAL

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INCLUSION OF SUCH AN ELEMENT THROUGH, FOR EXAMPLE, THE ADDITION OF A CONCLUDING PHRASE SUCH AS "WHO WISH SUCH ACCESS", WOULD GIVE THE GDR GROUNDS FOR DENYING US ACCESS. THE ABSENCE OF AN ELEMENT OF VOLITION WITH REGARD TO GDR ACCESS TO GDR CITIZENS IS OF NO PRACTICAL IMPORTANCE, SINCE, AS IS OUR PRACTICE WITH OTHER COMMUNIST STATES, WE WOULD MAKE EVERY EFFORT IN CASES OF DEFECTION OR DENUNCIATION OF CITIZENSHIP TO ENSURE THAT A GDR CONSUL COULD SATISFY HIMSELF THROUGH PERSONAL CONFRONTATION THAT THE PERSON INVOLVED WAS DOING SO VOLUNTARILY. THIS PRACTICE, TO WHICH THERE HAVE BEEN ONLY RARE EXCEPTIONS, REMOVES A BURDEN OF SUSPICION FROM U.S. BILATERAL RELATIONS WITH THE STATE INVOLVED AND IS A FURTHER ASSURANCE OF ACCESS TO OUR OWN CITIZENS.

5. THE SECOND SENTENCE IS INTENDED TO ADDRESS SPECIFIC GDR CONCERNS ABOUT THE ACCESS OF CONSULS OF THE FEDERAL REPUBLIC TO GERMANS. THE OBVERSE OF THIS SENTENCE, OF COURSE, IS ALSO TRUE; I.E. NO PERSON CLAIMED BY THE GDR AS A CITIZEN WILL BE DENIED ACCESS TO CONSULAR OR OTHER OFFICIALS OF ANY OTHER STATE AGAINST HIS OR HER WILL. IN THIS REGARD, THE UNITED STATES WISHES TO ASSURE THE

FEDERAL REPUBLIC THAT A U.S.-GDR CONSULAR CONVENTION
WOULD NOT BE APPLIED BY THE U.S. GOVERNMENT SO AS TO
AFFECT ADVERSELY THE EXISTING RIGHTS OF CONSULAR OFFICERS
OF THE FEDERAL REPUBLIC IN THE UNITED STATES TO PROVIDE

CONSULAR ASSISTANCE IN ACCORDANCE WITH THE PROVISIONS
OF THE 1963 VIENNA CONVENTION ON CONSULAR RELATIONS
AND THE OCTOBER 22, 1954 TREATY OF FRIENDSHIP, COMMERCE
AND NAVIGATION TO GERMAN NATIONALS WHO REQUEST SUCH
ASSISTANCE. END TEXT

6. IN PRESENTING "CIRCLE OF PERSONS" APPROACH TO FRG
COLLEAGUE, US BONN GROUP REP SHOULD ALSO LEAVE ABOVE
NON-PAPER AND MAY DRAW UPON SAME IN MAKING PRESENTATION
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OF APPROACH TO BONN GROUP. CHRISTOPHER

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